

Chesapeake Bay Exception CBE-11-129: 3649 Bridgewater Drive - Drygala

Staff report for the July 13, 2011 Chesapeake Bay Board Public Hearing (*Revised for the December 14, 2011 Chesapeake Bay Board meeting.*)

This staff report is prepared by James City County Engineering and Resource Protection to provide information to the Chesapeake Bay Board to assist them in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.

Existing Site Data & Information

Applicant: Marcin Drygala

Land Owner: Marcin Drygala and Agnieszka Adamska

Location: 3649 Bridgewater Drive

Parcel: Lot 8, Section 6, Mill Creek Landing

Parcel Identification: 3841760008

Lot Size: 0.37 acres

RPA Area on Lot: 0.20 acres or 54% of the lot, 0.06 acres or 16.2% of the lot seaward 50 foot RPA

Watershed: Mill Creek (HUC Code JL33)

Proposed Activity: 16' x 25' attached deck (administrative);
Removal of twenty (20) trees within the RPA Buffer, installation of concrete ground gutters and french drains to intercept stormwater run-off.

Proposed Impacts

Impervious Area: 400 square feet from deck (administrative);

RPA Encroachment: 2,400 square feet to the seaward 50 foot RPA Buffer and 900 square feet to the landward 50 foot RPA Buffer, total RPA Buffer impact = 3,500 square feet

Brief Summary and Description of Activities

Mr. Marcin Drygala has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer for the construction of an attached deck, the removal of seventeen (17) understory trees, the removal of three (3) canopy trees, the installation of two french drains and a concrete ground gutter at 3649 Bridgewater Drive, in the Mill Creek Landing Subdivision. The lot was platted prior to the original Chesapeake Bay Preservation Ordinance. An RPA was determined to exist on this lot after the 2004 revision to the Ordinance. The house was approved administratively with RPA impacts under CBE-05-025 on June 7, 2005. The rear yard that was approved at that time is 30 feet deep and has a slight slope to it.

The applicant proposes remove three (3) canopy and seventeen (17) understory trees as well as install two french drains and a ground gutter along the east side of the residence. The scope of the proposed work has been revised since the last meeting as the applicant has removed the request for the installation of retaining wall and the associated bank grading. In place of the previous request the applicant proposes to remove the aforementioned trees and install the drainage improvements to along with minor bank grading to create a more usable backyard space.

The tree removal and ground gutter installation is proposed to be offset by the installation of thirteen (13) canopy trees and nine (9) shrubs. The canopy trees will be installed along the side and rear property lines and will be buffered by an area of organic mulch to stabilize the area.

The french drains and concrete ground gutter will be used to intercept stormwater run-off and divert it to the drainage swale along the eastern property line. The applicant states that these proposed drainage improvements will prevent erosion of the backyard area.

Staff Recommendations

The issue before the Board is the removal of seventeen (17) understory trees, three (3) canopy trees, and the installation of the concrete gutter and associated french drains. The existing rear yard is 30 feet deep from the rear door of the structure. This yard does have a slight slope to it, draining away from the house. The applicant wishes to selectively clear the rear yard thereby expanding the usable area. The original application had a cleared rear yard associated with the house. The additional clearing proposed does not appear to be within the spirit and intent of the Ordinance, therefore staff cannot support the application as submitted. The Board is to determine whether or not this is consistent with the spirit and intent of the Ordinance and make a finding based upon the criteria outlined in Section 23-14 (c) of the Ordinance. There are five review criteria within this section of the ordinance.

Staff has fully reviewed the application and exception request and has determined that none of the conditions outlined in Section 23-14 (c) have been met.

If the Board should choose to approve this application, regardless of other requirements imposed by the Board, staff recommends the incorporation of the following conditions into the approval:

1. The applicant must obtain all other necessary local permits as required for the project.
2. All proposed mitigation plantings shall meet James City County standards of 1" caliper for the canopy and understory trees and proposed shrubs shall be minimum three gallon size.
3. Full implementation of the approved RPA Mitigation Plan and any additional Board mitigation requirements shall be guaranteed through a form of surety satisfactory to the County Attorney and the provisions of the Ordinance contained in Sections 23-10(3) (d) and 23-17(c).
4. This exception request approval shall become null and void if construction has not begun by July 13, 2012.
5. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 2 weeks prior to the expiration date.

Water Quality Impact Assessment (WQIA)

Under Sections 23-11 and 23-14 of the County's Chesapeake Bay Preservation ordinance, a water quality impact assessment (WQIA) must be submitted for any proposed land disturbing activity resulting from development or redevelopment within RPAs.

The applicant has submitted the majority of the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The applicant has submitted a *County Sensitive Area Activity Application*. The proposed mitigation plan includes the installation of thirteen (13) canopy trees and nine (9) shrubs to offset the impacts to the RPA.

Consideration by the Chesapeake Bay Board

The exception granting body is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Chesapeake Bay Board is to fully consider Chesapeake Bay Exception CBE-11-129 as outlined and presented above and review the request for exception and the water quality impact assessment. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chapter 23 Chesapeake Bay Preservation Ordinance. Resolutions for granting approval or granting denial of Chesapeake Bay Exception CBE-11-129 are included for the Board's use and decision.

Staff Report prepared by:

Michael D. Woolson
Senior Watershed Planner

CONCUR:

Scott J. Thomas
Secretary to the Board

Attachments: Sensitive Area Activity Application